

MAINE REVENUE SERVICES
(FORMERLY BUREAU OF TAXATION)
SALES/EXCISE TAX DIVISION
RULE 308

DIRECT PAYMENT PERMITS

SUMMARY: Establishes a system for combined reporting of purchases by manufacturers and utilities under a direct payment permit.

1. Introduction

Manufacturers and utilities which commonly acquire a substantial amount of tangible personal property under circumstances which make it impractical to determine, at the time of purchase, the manner in which property will be used and, therefore, impractical to determine whether the purchase or use of the property will be taxable or exempt, are authorized to remit tax pursuant to a direct payment permit. Holders of direct payment permits are given the privilege of purchasing tangible personal property without payment of the tax to their retailers and reporting and paying tax directly to the State.

2. General Requirements

To receive a direct payment permit, the following requirements must be met by the taxpayer:

- A.** Application for direct payment permit must be filed with the Bureau of Taxation on a special form provided by the Bureau.
- B.** The applicant must hold a valid Maine Sales Tax Registration Certificate.
- C.** The applicant's activity must include, in a substantial amount, purchases of tangible personal property under circumstances which make it impractical to determine, at the time of purchase, whether the purchase or use of the property will be taxable or exempt.
- D.** The applicant must substantiate to the Bureau of Taxation that his accounting methods will clearly reflect the proper amount of tax due and that payment of sales or use taxes to the State will not be jeopardized by permitting sales and use taxes to be reported directly.
- E.** The applicant must make purchases in sufficient volume to justify the expense of regular audits by the Bureau of Taxation.
- F.** The applicant must be either a manufacturer or a utility.

3. Manner in Which Direct Payment Permit is to be used by Taxpayer

Holders of direct payment permits shall file a copy with each retailer and the direct payment permit number shall be placed on all purchase orders or contract covering the purchase of tangible personal property, in lieu of payment of tax to the retailer, except in those transactions excluded in 4 below. Holders of direct payment permits shall not authorize anyone to whom they have issued a direct payment permit to file the direct payment permit or permit number with a third party.

Sales tax registrations held by holders of direct payment permits will be placed on an inactive basis and accrued sales and use tax liabilities will be reported on sales and use tax returns which will be issued under the direct payment permit number.

4. General Restrictions Upon Use of Direct Payment Permit

A. Sales tax shall be paid to the retailer on the following types of purchases:

1. Purchase of prepared food or beverages at an eating place.
2. Purchase of occupancy or accommodations at hotels, motels, etc.
3. Purchase of telephone or telegraph service.
4. Rentals under the interim rental provisions of Section 1758, short-term rentals of automobiles under Section 1811.

B. No permit holder shall authorize a contractor or lessor to use his permit for the purposes described in Subsection (1) and (2) below. Any such authorization shall constitute grounds for revocation of the permit in accordance with Paragraph 5.B.

1. Purchases of Real Estate. Contracts for the construction of real estate, the provisions of which require the incorporation of tangible personal property into the real estate of a permit holder prior to passage of title, shall not use a direct payment permit or permit number in any way that infers that such tangible personal property purchased by the contractor may be purchased tax free under a direct payment permit. It will be deemed that passage of title to the permit holder does not occur prior to incorporation into real estate unless specifically stated in the contract.

2. Leases. Leases (other than leases in lieu of purchase) covering the lease of tangible personal property to a holder of a direct payment permit shall not include a direct payment permit number, nor shall the use of direct payment permit numbers in any way infer that tangible personal property to be purchased by the lessor for lease to the holder of a direct payment permit may be purchased tax free under a direct payment permit.

Even though a lease may require a lessee to reimburse the lessor for any taxes incurred by the lessor on the leased property, the State Tax Assessor will look to the lessor for payment of the sales and use tax liability, as such a provision in a lease is a contractual provision between the parties to the lease. In cases of interim rentals under Section 1758 and short-term rentals of

automobiles under Section 1811, billings of sales tax are made and should be paid to the vendor by the direct payment permit holder.

5. Revocation of Direct Payment Permit

- A.** The holder of a direct payment permit who wishes to surrender such permit voluntarily must first obtain written permission from the State Tax Assessor.
- B.** The State Tax Assessor shall have the authority to revoke a direct payment permit at any time for failure of the taxpayer to comply with the conditions under which the permit was granted, or for reasons constituting misuse of such authority.
- C.** Within 30 days after receipt by a permit holder of notice of revocation by the State Tax Assessor or within 30 days after receipt of the State Tax Assessor's permission for discontinuance of the direct payment permit by the taxpayer, the permit holder shall:
 - 1. Give notice to each supplier with whom it had transacted business pursuant to the direct payment authority, that subsequent to any appropriate effective date, it will no longer claim exemption from payment of tax by reason of a direct payment permit.
 - 2. Return the direct payment permit to the State Tax Assessor.

6. Direct Payment Permit

The direct payment permit will be issued by the State Tax Assessor in the form prescribed below:

STATE OF MAINE
Bureau of Taxation
Direct Payment Permit

No. _____

It having been determined that the conduct of the business of the taxpayer noted below is such that it would be impractical for it to pay sales and use taxes separately under the Maine Sales and Use Tax Law on purchases made by it, that payment of sales and use taxes to the State would not be jeopardized by permitting the taxpayer to report and pay sales and use taxes directly, and the taxpayer having obligated itself to report and pay sales and use taxes directly, retailers selling to the taxpayer named below are hereby relieved of collecting sales and use taxes from it.

Except as noted below, the taxpayer shall file a copy of this permit with each retailer and shall place the direct payment permit number on all purchase orders and contracts covering the purchase of tangible personal property; which shall be sufficient evidence to retailers to relieve them from collecting sales or use taxes thereon.

Name of Taxpayer _____

Address of Taxpayer _____

Date _____

State Tax Assessor

Copies of this permit or the permit number shall not be used in connection with:

- A. The purchase of tangible personal property by other than the holder of this permit.
- B. The purchase of prepared food or beverages.
- C. The purchase of occupancy at hotels, motels, etc.
- D. The purchase of telephone or telegraph service.
- E. Rentals or leases, other than leases in lieu of purchase, of tangible personal property.
- F. The purchase of tangible personal property which will become incorporated into the real estate of the permit holder prior to passage of title.

Form ST-P-3

AUTHORITY: 36 MRSA Sec. 1901